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Congress of the United States
House of Representatives
Washington, DC 20515

TODD ROKITA
4TH DISTRICT, INDIANA

COMMITTEE ON THE BUDGET

COMMITTEE ON HOUSE
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COMMITTEE ON EDUCATION
AND THE WORKFORCE

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March 14, 2013

Lisa Austin
Acting Associate Administrator
General Services Administration
Office of Congressional and Intergovernmental Affairs
1275 First Street, NE
Washington, DC 20417

Dear Ms. Austin:

I appreciate your response to my inquiry regarding the transparency and enforcement of the U.S. General Services Administration's (GSA) GSA Advantage! website. However, I would like further clarification regarding your response.

I am concerned that GSA is willfully circumventing the congressional intent in regard to the American Recovery and Reinvestment Act (ARRA) of 2009. I understand your letter to say that GSA Multiple Award Schedule (MAS) products are not subject to the Buy American Act (BAA) provision. As a result, they are still eligible for purchase for ARRA projects and can be promoted as such on GSA Advantage! if MAS vendors accept the "terms and conditions" of ARRA. If this is the case, does this position not ignore the purpose of ARRA, which requires BAA compliance for ARRA related purchases?

Additionally, what is your rationale for only attaching the "ARRA" symbol to contractors, as opposed to the actual products? Section 1605 of the ARRA clearly states that the "manufactured goods" need to be produced in the United States. This demonstrates Congress's clear intention that the products should be the focus, rather than the contractors. Why does GSA not use a rating system which confirms available products are ARRA compliant?

I respectfully request a response to this inquiry no later than April 5, 2013. If you have any questions or comments, please do not hesitate to contact Corban Teague in my office at corban.teague@mail.house.gov or 202-225-5037.

Sincerely,

Todd Rokita
Member of Congress

TER/ct



GSA Office of Congressional and Intergovernmental Affairs

June 24, 2013

The Honorable Todd Rokita
House of Representatives
Washington, DC 20515

Dear Representative Rokita:

Thank you for your letter, dated March 14, 2013, which we received on April 19, 2013, requesting clarification regarding the transparency and enforcement of the U.S. General Services Administration's (GSA) *GSA Advantage!*® web site. Your concern was specific to whether GSA was willfully circumventing Congressional intent in regard to the American Recovery and Reinvestment Act of 2009 (ARRA).

With respect to the application of the Buy American Act (BAA), ARRA does not reference or incorporate the BAA. While H.R. 1-189, Section 1605 (USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS) does direct the purchase of American made items, it does not incorporate the BAA. Also, Section 1605 is specific to the "construction" industry related to public buildings and public works, areas not generally covered by the GSA Multiple Award Schedule contracts.

It is important to understand that the BAA does not apply to acquisitions subject to the Trade Agreements Act (TAA) (see Federal Acquisition Regulation (FAR) 25.001(b)). GSA applies the TAA to the Schedule contracts because each contract is valued in excess of the threshold (\$202,000 is the highest threshold) (see FAR 25.4). Consequently, the provisions of the BAA are not applicable.

As noted in our letter dated February 26, 2013, an ordering activity would need to specify its point of production requirement in the individual task or delivery order Request for Quote to ensure the purchase of American made products. *GSA Advantage!*® lists the country of origin for each item, which enables ordering activities to confirm compliance with an order level point of production requirement.

In regards to your concern that GSA only attaches the ARRA symbol to contractors as opposed to the actual products, please understand that the ARRA symbol is in fact applied at the line item level in *GSA Advantage!*®

I hope that this further clarification satisfies your concerns regarding the transparency and enforcement of the *GSA Advantage!*® web site.

Should you have any additional questions or concerns, please do not hesitate to contact me at (202) 501-0563.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lisa A. Austin", with a stylized, cursive script.

Lisa A. Austin
Associate Administrator